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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,318	03/17/2005	Mirko Appel	2002P15665WOUS	4524

7590 06/19/2007
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

FAYYAZ, NASHMIYA SAQIB

ART UNIT	PAPER NUMBER
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2856

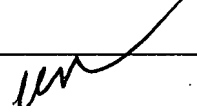
MAIL DATE	DELIVERY MODE
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06/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,318	Applicant(s) APPEL ET AL. 	
	Examiner Nashmiya S. Fayyaz	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed 4/5/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: as in amended claims 13 and 17 that the step of uniquely assigning an acoustical signal to a specific failure... "wherein a frequency range of the uniquely assigned acoustic signal is selected to be human audible". Firstly, there is no indication of assigning a signal with a "frequency range" or secondly, that it is always "selected to be humanly audible". In the original specification, it is merely indicated that the plate is activated at its resonance frequency which causes a noise. It is unclear where it is specified that the noise is in the range of human audible. Also, how would it be possible to guarantee that the signal of bearing failure would result in the human audible range?

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See paragraph one above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. . Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 13, 15-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al- US Patent # 5,691,707. As to claim 1, Smith et al. disclose assigning an acoustical signal (audible alarm) to a specific failure (vibration reaches a preselected level indicating impending failure)of a rotatable component (bearing block 40) and mounting a vibratory device (vibration sensor 36 with its receiver 35) on the component (block 40) wherein the vibratory device is configured to generate the acoustic signal (audible alarm via receiver 35), see specifically col. 2, lines 21-35 and figs. 1-6. Further, it is noted that the alarm generated is indicated to be "audible" rather than human audible and the Smith et al lack a teaching for application in a technical installation. However, given that the operators are generally human, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the audible alarm generated to be humanly audible. As to the application of the method in a technical installation, Smith does indicate the usage in a bearing of a rotating shaft (50) or pump (42) indicating the usage in a technical installation since such devices are known to be utilized in technical installations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the device to be applicable to technical installations since pumps and shafts are known to be used in such installations and it is old and

well-known to monitor bearing failures in technical installations. As to claims 15 and 19, note the embodiment of fig. 6 where two sensor fittings 10 are installed on two bearing housings. As to claims 16 and 20, Smith et al disclose application of two devices (temperature sensor 34 and vibration sensor 36) to a single component where each "device" is assigned to a specific failure (temperature or vibration). As to claim 17, note claim 13 rejection above which will not be repeated for the sake of brevity. Further, it is noted that Smith et al lack a specific teaching for application in a power plant. Again, Smith does indicate the usage in a bearing of a rotating shaft (50) or pump (42) indicating the usage in a technical installation since such devices are known to be utilized in power plants, as well. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the device to be applicable to power plants since pumps and shafts are known to be used in such installations and it is old and well-known to monitor bearing failures in power plants given the impending damage that could be caused.

7. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al as applied to claims 13, 15-17, 19 and 20 above, and further in view of Anderson, III et al. As to claims 14 and 18, Smith et al lack a specific disclosure of the type of vibration sensor being employed as being in the form of a plate. In a related prior art device, Anderson, III et al teach a vibration sensor for monitoring failures in rotating machinery and is in the form of

a plurality of ribbons 4, 4', 4" each resonant at a preselected frequency, see Abstract and col. 3, lines 20 et seq. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the Anderson, III et al vibration sensor to the Smith et al device since Smith et al fail to specify the type of vibration sensor employed and Anderson, III et al disclose usage of the vibration sensor in the art of vibration monitoring of rotating machinery as does Smith et al.

Response to Arguments

8. Applicant's arguments with respect to claims 13-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

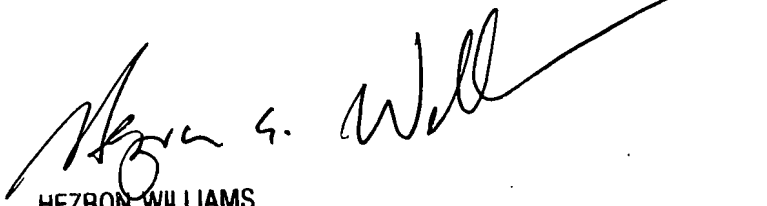
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NFayyaz
Examiner
Art Unit 2856

nf
6/11/07


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